

***Disability Law Center, Inc. vs Massachusetts Department of Correction, et al.***  
Civil Action No. 07-10463 (MLW)

Second Report of Designated Expert Kathryn A. Burns, MD, MPH

Dates of Site Visit: February 21-22, 2013

Date of Report: April 3, 2013

**Sites visited:**

MCI-Cedar Junction (MCI-CJ)

- Departmental Disciplinary Unit (DDU)
- Special Management Unit – 10 Block, segregation
- Behavioral Management Unit (BMU)

Old Colony Correctional Center (OCCC)

- Residential Treatment Unit
- Segregation

**MCI-Cedar Junction**

MCI-Cedar Junction was visited on February 21, 2013. Interviews with individual inmates were conducted with prisoners housed in the DDU, Special Management Unit (SMU) and Behavioral Management Unit (BMU.) Medical records of the DDU inmates were reviewed.

One inmate awaiting out-of-state transfer has been maintained in SMU at MCI-CJ for 440 days. He is classified as MH-3 A,B,D and designated as SMI. Some accommodation has been made for him. For example, he has been permitted use of a television in his cell. He is seen weekly out-of-cell by his clinician. He cannot go to outdoor recreation due to an eye/vision condition. Indoor recreation is not available in SMU. (The inmate also reported that the psychiatrist prays with him during his medication management appointments.) He reported transient thoughts of suicide at times, a return of some auditory hallucinations that it was “getting really tough to be in that cell all day and night.” Although this inmate is not classified as MH-4, he is designated as SMI and in prolonged and indefinite segregation pending out-of-state transfer. A recommendation was made on site for the prison administrators and mental health staff to consider additional accommodation for more out-of-cell time, including access to some form of indoor recreation. (Additionally, assurances were provided that the issue of the praying psychiatrist is being addressed by MHM.)

Programming in the BMU as documented in the medical records and reported by the inmates does not support that current programming is based on evidence-based practices or best clinical practice models. While it is understood that such practices are not strictly “required” by the terms of the Settlement Agreement, use of EBP in the community has increasingly become the standard of care and could assist in measuring clinically specific and relevant outcomes in addition to the current metrics measured (use of force, assaults, suicide precautions, psychiatric hospitalization and disciplinary reports.) This recommendation was also discussed at the exit interview.

The inmate rosters provided reflect a very high prevalence of the use of the “Not Otherwise Specified” (NOS) diagnostic designation. Documentation to explain or support the use of the NOS specifier was not

apparent in the files reviewed. Diagnostic specificity is important for mental health classification, SMI designation and treatment interventions. The very high prevalence (37.5-62%) is atypical and perhaps best addressed through a robust quality improvement/psychiatric peer review process. (MHM reported that currently, psychiatric peer review is conducted only once annually.) It is again understood that the Settlement Agreement is silent on the topic of peer review, but diagnostic accuracy has direct bearing on the terms and conditions of the agreement.

One additional caution regarding the use of psychological tests for diagnostic clarification that are culturally, linguistically and educationally appropriate for the population tested was also discussed at the exit interview.

### **Old Colony Correctional Center (OCCC)**

OCCC was visited on February 22, 2013. We were provided a brief tour of the institution including the Residential Treatment Unit. Individual interviews with inmates housed in the segregation unit were conducted. In addition, medical records were reviewed for some of the inmates interviewed.

The same observations regarding the very high prevalence of NOS diagnoses without supporting documentation of the rationale were made of the inmates interviewed and listed on the segregation roster.

**Assessment:** With the exception of the inmate held for 440 days, the Department's documentation demonstrates compliance with the terms of the Settlement Agreement with respect to screening; providing out-of-cell treatment opportunities to inmates, both individual and group activities; and providing supplemental mental health services for inmates confined to segregation.

Recommendations were offered on site during the exit interview and have been summarized in this document. A synopsis of the inmate interviews is attached.

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· DSM-IV specifies four situations in which an NOS diagnosis may be appropriate: the symptomatic picture does not meet criteria for any specific disorder, the symptom pattern is not currently recognized as a specific disorder, uncertainty about etiology or insufficient opportunity to complete data collection.